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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,719	05/16/2002	Thomas R. Ricono	P24624 USA	2560

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SYNNESTVEDT & LECHNER, LLP  
2600 ARAMARK TOWER  
1101 MARKET STREET  
PHILADELPHIA, PA 191072950

EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/905,719

Applicant(s)

RICONO ET AL.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-27, 31, 35-38, 43 and 44 is/are rejected.
- 7) ☒ Claim(s) 28-30, 32 and 39-41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

Reference character "62" used to designate a blade holder (pg. 7, line 20) and a drive shaft (pg. 7, line 21; pg. 8, line 22))

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazaki (3,7406,061) in view of Chang (6,427,343). With regard to claims 22, 23, 24, 35, 36, 37 and 42, Nakazaki discloses a pencil sharpener comprising first and second external shells (col. 2, lines 49-53), a sharpening sub-assembly (22), a cutter assembly defining a ring flange and groove (24), a cutter gear module including a annular ring gear (col. 3, lines 9-19) and wherein said cutter assembly is rotatably supported by said gear module pinion, a blade (37) having spiral cutting edges (65) blade holder (32) and drive shaft (30). Nakazaki does not disclose first and second shells having internal ribs defining a first plurality of support surfaces to retain said sharpening sub-assembly within the shells. It is inherent however, that Nakazaki does provide a retaining/securing means within the shells so as to hold the sharpening means securely in position within the shells or casing. It would have been obvious at the time of the invention to one having

Art Unit: 3725

ordinary skill in the art to replace Nakazaki's mounting/retaining means with ribs so as to mount/secure the sharpening sub-assembly components to the shells/casing, since it has been held that replacing any one of a mechanical expedient (i.e. retaining means) requires only routine skill in the art.

Additionally, Chang teaches in a pencil sharpener the use of first and second shells (col. 2, lines 22-26) wherein ribs (19) are used to secure a casing and cutter assembly (col. 2, lines 26-39). Because the references are from a similar art and deal with a similar problem, (i.e. securing sharpening assembly components to the interior of a pencil sharpener shell) it would have been obvious at the time of the invention to one having ordinary skill in the art to replace Nakazaki's mounting/retaining means with ribs as taught by Change so as to retain/secure the sharpening assembly components to the interior of a pencil sharpener shell.

With regard to claim 25, Nakazaki discloses a blade holder (32) defining a ring gland, cutter gear module defining a ring groove for register with the flange wherein said blade holder is rotatably supported at one end by said cutter module (fig. 3 ).

With regard to claim 26, Nakazaki discloses an electric motor (28) connected to said sharpening sub-assembly.

With regard to claim 27, Nakazaki discloses an electric motor (28) connected to said sharpening sub-assembly and a switch operatively connected to an electric motor (col. 3, lines 29-43).

With regard to claims 31 and 38, Nakazaki discloses a dual switch (54).

With regard to claims 43 and 44, Nakazaki discloses a power cord (62), first and second shells and a receptacle (51) mounted with the first and second shells. As to the specific shape of

Art Unit: 3725

the pencil sharpener, it is a matter of design choice to one having ordinary skill in the art to select any shape, since it has been held that where essential working components of a device are present, selection of shape is a matter of design choice and involves only routine skill in the art.

***Allowable Subject Matter***

Claims 28-30, 32, and 39-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejections were overcome.

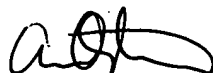
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Kreim (5,077,903), Imanishi et al. (3,678,975), Andrisin III et al. (5,875,555), Verdi (4,601,616), Kose et al. (4,054,164), Burton (2,822,781), Johnson (2,900,958) and US. Pat. Nos. (3,134,365) and (3,650,308) issued to Hori.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf  
February 11, 2003



**ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**